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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,787	07/13/2001	Masumi Sato	211432US2	1486
22850	7590	04/28/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			BRASE, SANDRA L	
			ART UNIT	PAPER NUMBER
			2852	
DATE MAILED: 04/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/903,787

**Applicant(s)**

SATO ET AL.

**Examiner**

Sandra L. Brase

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-8 and 10-19 is/are allowed.
- 6) ☒ Claim(s) 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant amended claim 9 to claim that the waste toner container has a triangular cross section. The waste toner container is labeled 93 in figure 1, where the waste toner container 93 does not have an exact triangular cross section. On page 13, line 18 – page 14, line 9, of Applicant's specification, the space where the waste container 93 is provided merely has a substantially triangular shape, where the waste toner container is formed in a shape in conformity with this space, which is defined as substantially triangular and not exactly triangular. As a result there is no disclosure in the specification as originally filed that the waste toner container has a cross section that is exactly shaped as a triangle.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto (JP 11-095519) in view of Reese et al. (US 5,272,510).

4. Fujimoto (...519) discloses a color image forming apparatus comprising: a transfer belt (213) which feeds a transfer member (P); a plurality of image forming units (Pa, Pb, Pc and Pd), which are disposed facing towards the transfer belt (figure 1), wherein each of the image forming units form a desired image and sequentially transfers the formed image on the transfer member fed by the transfer belt device ([0026]-[0028]); and where the transfer belt device at least in a portion in which the image forming units have been disposed is arranged such that it is inclined with respect to the ground (figure 1). Fujimoto (...519) does not disclose the claimed waste toner container. Reese et al. (...510) disclose a waste toner container (24) containing therein a waste toner recovered by a cleaning unit, where the waste toner container is located at a bottom portion of an image forming apparatus under a transfer device (figure 1). The waste toner container has a cross section of a substantial triangle shape (figure 1), but do not disclose an exact triangular cross section. Applicant has not established the criticalness of an exact shape of

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a cross section of the waste toner container. Furthermore, on lines 2-3 of page 14 of applicant's specification specifically states that "the waste toner tank 93 has a remarkably greater freedom of a shape"; thus disclosing that the exact shape is non-critical. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the claimed waste toner container, as disclosed by Reese et al. (...510), so that waste toner can be easily removed from the apparatus, where the exact shape of the cross section of the toner waste container is considered to be non-critical.

***Allowable Subject Matter***

5. Claims 1-3, 5-8 and 10-19 are allowed.

***Response to Arguments***

6. Applicant's arguments filed 2/18/04 have been fully considered but they are not persuasive.

7. Applicant argues that Reese et al. (...510) do not disclose a waste toner container having an exact triangular shape as now claimed in amended claim 9. Reese et al. (...510) disclose a waster toner container having a substantially triangular cross section, but does not disclose the waster toner container has an exact triangular cross section. However, Applicant's specification as originally filed does not contain any description as to a waster toner container that has an exact triangular cross section. Moreover, the shape of the waste toner container was described in Applicant's specification as being non-critical.

***Final Rejection***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contacts \ Inquiry***

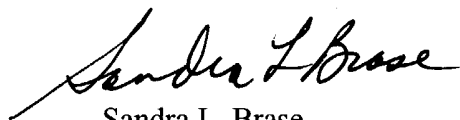
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra L. Brase whose telephone number is (571) 272-2131. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur T. Grimley, can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Sandra L. Brase". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sandra L. Brase  
Primary Examiner  
Art Unit 2852

April 23, 2004